UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD FIRST REGION

In the Matter of

KINNEY SYSTEM, INCORPORATED, d/b/a CENTRAL PARKING SYSTEM OF MASSACHUSETTS

Employer¹

Case 01-RC-071163

and

INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL UNION No. 25

Petitioner

DECISION AND DIRECTION OF ELECTION²

The Employer is engaged in the business of operating parking lots and garages. The Petitioner, International Brotherhood of Teamsters Local Union No. 25, seeks to represent a bargaining unit of certain employees employed at the Employer's various

Upon the entire record in this proceeding, I find that: 1) the hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed; 2) the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this matter; 3) the labor organizations involved claim to represent certain employees of the Employer; and 4) a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

¹ The names of the Employer and the Petitioner appear as amended at the hearing.

² Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. In accordance with the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director.

locations in the Boston, Massachusetts area.³ At the hearing, the Employer and the Petitioner stipulated that the appropriate unit includes attendants, valets, floor attendants, lead attendants, cashiers, dispatchers, shuttle drivers, and maintenance workers and excludes project managers and auditors. There are approximately 312 employees in the bargaining unit.

There were no issues litigated at the hearing.⁴

Accordingly, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time attendants, cashiers, valets, floor attendants, lead attendants, dispatchers, shuttle drivers, and maintenance workers employed by the Employer at various locations in the Boston, Massachusetts area, as listed in Attachment A, but excluding supervisors, project managers, auditors, all other employees, and guards and supervisors as defined in the Act.

ATTACHMENT A

The following sites, all located in Massachusetts, are included in the Central Parking System of Massachusetts bargaining unit in Case 01-RC-071163:

- 121 Nashua Street, Boston
- 234 Causeway Street, Boston
- 2 Battery Wharf, Boston

At the hearing, the Employer took the position that approximately 55 individuals in a job classification entitled "supervisor" should be excluded from the unit as statutory supervisors and made an offer of proof concerning their supervisory status. The Petitioner did not stipulate to the status of these individuals as Section 2(11) supervisors but agreed, in any event, to exclude this classification from the bargaining unit.

The parties were unable to reach an agreement with respect to the mechanics of the election. The mechanics of the election are a non-litigable issue, which I shall determine administratively. North American Plastics Corp., 326 NLRB 835 (1998); Guide for Hearing Officers in NLRB Representation and Section 10(k) Proceedings, Section II.E.13.

³ At the hearing, the parties stipulated that neither party seeks to include employees at the Employer's Worcester, Massachusetts or Lowell, Massachusetts locations.

⁴ At the hearing, the parties stipulated, and I find, that accounting specialists employed at these locations, of which there are approximately seven, will be permitted to vote under challenge.

2 Atlantic Avenue, Boston

Center Plaza City Hall, 1 Center Plaza, Boston

17 Beacon Street, Boston

47 Broad Street, Boston

60 State Street, Faneuil Hall, Boston

28 State Street, Boston

1 Post Office Square (entrance 34 Pearl Street), Boston

225 Franklin Street, Boston

1 Federal Street, Boston

75-101 Federal Street, Boston

International Place, 1 International Place, Boston

99 Summer Street (entrance 22 Kingston Street), Boston

750 Atlantic Avenue, Boston

Chinatown, 125 Lincoln Street, Boston

Atlantic Wharf Garage, 280 Congress Street, Boston

284 A Street, Boston

1 Channel Center, Boston

17 West Street, Boston

6 Avery Street, Boston

47 LaGrange Street, Boston

Theatre District, 47 Boylston Street, Boston

1 Charles Street, South Boston

Boston Common Garage, 0 Charles Street, Boston

132 Arlington Street, Boston

10 St. James Avenue, Boston

100 Clarendon Street, Boston

Prudential Center, 800 Boylston Street, Boston

1080 Boylston Street, Boston

1085 Boylston Street, Boston

25 Calumet Street, Boston

500 River Street, Mattapan

330 Grove Street, Newton (Riverside)

1940 Washington, Newton (Woodland)

University Place, Harvard Square, 124 Mount Auburn Street, Cambridge

Cambridge Center West Kendall, 77Ames Street, Cambridge

10 Cambridge Center, Cambridge

4 Cambridge Center, Cambridge

Riverview Court, 245 First Street, Cambridge

1 Memorial Drive, Cambridge

Alewife, 11 Cambridgepark West, Cambridge

1250 Hancock Street, Quincy

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **International Brotherhood of Teamsters Local Union No. 25.** The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear*, *Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before January 20, 2012. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted

⁵ If a manual multilocation election with simultaneous polling hours is directed, in addition to an overall eligibility list, it is required that a separate list for each location be submitted. NLRB Representation Casehandling Manual Sec. 11312.1(g).

to the Regional Office by electronic filing through the Agency's website, www.nlrb.gov, by mail, or by facsimile transmission at 617-565-6725. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of two copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by January 27, 2012.

⁶ To file the eligibility list electronically, go to <u>www.nlrb.gov</u> and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions.

The request may be filed electronically through E-Gov on the Agency's website, www.nlrb.gov, but may not be filed by facsimile.

DATED: January 13, 2012

/s/ Rosemary Pye

Rosemary Pye, Regional Director First Region National Labor Relations Board Thomas P. O'Neill, Jr. Federal Building 10 Causeway Street, Sixth Floor Boston, MA 02222-1072

⁷ To file the request for review electronically, go to www.nlrb.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu and follow the detailed instructions. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Agency's website, www.nlrb.gov.